

10/624,263
67086-003**REMARKS**

Claims 6, 17 and 29 are objected to for several informalities. Claims 6, 17 and 29 have been amended as suggested by the Examiner. Claims 1 and 17 have also been amended to recite that the rail barricade defines a plane, and the openings are on a common side of the plane. Applicant respectfully requests entry of this amendment.

Claims 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Lauzier (US 3,955,799). The Examiner states that Lauzier discloses a rail barricade including a plurality of vertical spokes with a substantially circular cross-section, and the claimed invention is anticipated. Lauzier does not disclose a rail barricade including a plurality of vertical spokes with a substantially circular cross section as claimed. In Lauzier, the bars 3 are not substantially circular. Instead, the bars 3 included flattened surfaces and have a substantially rectangular shape, as shown in Figure 1. The claimed invention is not anticipated, and Applicant respectfully requests that the rejection be withdrawn.

Claims 15, 16, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doublet (US 4,646,807) in view of Lauzier. The Examiner admits that Doublet does not disclose a rail barricade including bars having a flattened portion to prevent rotation. The Examiner contends that it would be obvious to add this feature to Doublet in view of Lauzier, and the claimed invention is obvious. Applicant respectfully disagrees.

The combination of the references does not suggest, teach or disclose the claimed invention. In Doublet, the rails have a substantially circular cross sectional shape that is constant along the entire length of the rails. The railing device of Lauzier includes flattened bars 3 having a rectangular cross-sectional shape that is constant along the entire length of the bars. In both references, the cross-sectional shape is the same along the length of the bars. Neither of the references teach a rail having a circular cross section and an end with a flattened surface, or a rail with a different cross-sectional shape at the ends, as claimed. Therefore, even when combined, the combination of the references does not disclose, suggest or teach the claimed invention. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

Claims 1-5, 7-11, 13, 14, 17-24, 26-28, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doublet in view of Bilby (US 6,199,833). The Examiner admits that Doublet does not teach a rail barricade including pivotally attached feet. The Examiner contends

10/624,263
67086-003

that Bilby teach this feature, and it would be obvious to add this feature to Doublet. Applicant respectfully disagrees.

The claimed invention is not obvious. Claims 1 and 17 have been amended to recite that the openings of the hooks are located on a common side of a plane defined by the rail barricade. Neither reference teaches this feature. Doublet teaches hooks 15 and 16 that each include an opening located on opposing sides of a plane defined by a safety device 1. Bilby does not teach any hooks. Neither reference teaches a rail barricade including hooks with openings that are located on a common side of a plane defined by the rail barricade as claimed. Therefore, the combined teachings of these references does not disclose, suggest or teach the claimed features. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

Claims 25 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Doublet in view of Bilby and further in view of Lauzier. Claims 25 and 31 depend on patentable independent claims 1 and 17 and are allowable for the reasons set forth above. Adding Lauzier to the combined teachings of Doublet and Bilby still does not teach the claimed invention because none of the references teach, suggest or disclose a rail barricade including hooks with openings that are located on a common side of a plane defined by the rail barricade as claimed. Therefore, the combination of the references does not teach the claimed invention. The claimed invention is not obvious, and Applicant respectfully requests that the rejection be withdrawn.

Thus, claims 1-11 and 13-33 are in condition for allowance. No additional fees are seen to be required. If any additional fees are due, however, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C., for any additional fees or credit the account for any overpayment. Therefore, favorable reconsideration and allowance of this application is respectfully requested.

10/624,263
67086-003

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.



Karin H. Butchko

Registration No. 45,864

400 West Maple Road, Suite 350

Birmingham, Michigan 48009

Telephone: (248) 988-8360

Facsimile: (248) 988-8363

Dated: May 2, 2005

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (703) 872-9306 on May 2, 2005.



Karin Butchko